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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,695	03/22/2005	Minoru Matsui	052289	4034

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EXAMINER

MAHONE, KRISTIE ANNETTE

ART UNIT	PAPER NUMBER
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3751

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/528,695

Applicant(s)

MATSUI ET AL.

Examiner

Kristie A. Mahone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) 8 and 9 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2005 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's amendment to the specification filed on November 29, 2006, has been entered.

The substitute specification sufficiently responds to the Examiner's objection regarding usage of different reference numerals to identify the same part. The objection to the drawings under 37 C.F.R. 1.84(p)(4) has been withdrawn. Corrected drawings are not required.

Further, the objections regarding the typographical, grammatical, and idiomatic errors in present in the specification, have been withdrawn, as the substitute specification incorporates the necessary corrections.

2. Applicant's amendments, with respect to the pending claims sufficiently overcome the objection and rejections under 35 U.S.C. 112 raised at pages 5 and 6 of the Office Action. However, such amendments are insufficient to distinguish the invention from the cited art, as discussed supra.

Election/Restrictions

3. Newly submitted claims 8 and 9 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons.
4. Newly presented claims 8 and 9 are directed to a method of cleaning a toilet device. Originally presented claims 1, and 3-7 are directed to a toilet device. The newly

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presented claims and the originally presented claims are related as process/method and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process/method as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the process/method as claimed can be practiced by a materially different apparatus, such as a controlled sprayer.

5. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 8 and 9 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Specification

6. The substitute specification filed November 29, 2006, has been entered.

7. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required.

The specification does not recite a **switch for flushing** or a **switch for cleaning**.

Claim Rejections - 35 USC § 102

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8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, and 3-7, as presently understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Makita et al (5,204,999).

Makita discloses a toilet device, including a water supply means (i.e. valves 25-26) for supplying water to a rim water supply portion (18) and a jet water supply portion (nozzle 22); a control unit (29) for controlling the water supply means; an operation unit (30), and switch. (See Col. 8, lin. 23-25). Makita's switch is a switch for flushing and switch for cleaning, as operation thereof delivers water to the bowl usable in flushing/cleaning functions. When the switch is engaged, the controller supplies water to a jet water supply portion (22), and ultimately to a trap drainage portion (14) for a period of time sufficient to allow the bowl face to be discharged. (See Col 8, lin. 18-67). In Column 9, line 48- Col. 10, line. 18, Makita further discloses water is supplied into the trap drainage portion for a period of time longer than the time for flushing the toilet after use.

Regarding the water supply sequences of Claims 3 (rim-jet), 4 (rim-jet-rim), and 6 (jet –rim-jet-rim), Makita discloses that water is supplied to the rim water supply portion for a predetermined period of time prior to supplying water to the jet water supply portion. (See col. 8, lin. 42-52). Because Makita's system may supply water to the rim and to then jet when activated by the switch, Makita's system is deemed capable of performing any

water supply sequence wherein a rim washing and jet washing are consecutive operations, even if the user must depress the activation switch multiple times.

Regarding Claims 5 and 7, Makita discloses that when the switch is operated (Col 8., lin. 43-44), before a predetermined period of time elapses (supply of water to the rim for a predetermined time), the control means will proceed to the next operation (close valve 25). See Col. 8, lin. 43-52.

Response to Arguments

10. Applicant's arguments regarding the drawings, filed November 29, 2006, have been fully considered and are persuasive. The objection under 37 C.F.R. 1.83(a) has been withdrawn.

11. Applicant's arguments filed November 29, 2006, with respect to the pending claims have been fully considered but they are not persuasive.

Applicant asserts that Makita's switch is a switch for starting flush, and not a switch for cleaning. Applicant would have the Examiner read the specifics of the disclosure into the broad claim language. Applicant has advanced no other arguments regarding the propriety of the Examiner's rejection.

Nevertheless, applicant's arguments are moot in view of the new grounds of rejection under 35 U.S.C. 102(b) necessitated by applicant's amendment.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie A. Mahone whose telephone number is (571) 272-3680. The examiner can normally be reached on Monday -Friday 8:30A.M-5 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Kristie A Mahone
Examiner
Art Unit 3751



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